

## MUNICIPAL YEAR 2019/2020 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

### OPERATIONAL DECISION OF:

Executive Director of Place

in consultation with Adult Social Care, Legal and Procurement Services

**Agenda – Part: 1**

**KD 4874**

**Subject: Reardon Court Extra Care Redevelopment – Approval to Procure**

**Wards: ALL**

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#### 1. EXECUTIVE SUMMARY

- 1.1 This report is separated into Part 1 and Part 2 as it contains information that is exempt from disclosure. Releasing it would or would be likely to prejudice the commercial interests of the Council.
- 1.2 This report is the 'Approval to Procure' required under Contract Procedure Rules and follows on from the recent Cabinet Decision on 25<sup>th</sup> July 2018 (KD4710) to add £17.3m to the capital programme for redevelopment of the existing Reardon Court site with the provision of 69 units modern, accessible, self-contained Extra Care Housing, subject to securing a capital contribution from the Greater London Authority (GLA).
- 1.3 A bid was submitted to the GLA for a and in March 2019 the Council received confirmation that it had been successful in securing grant funding for 91 units, which was more than the that was approved by Cabinet, so a further report will be provided to Cabinet to approve the further funding required in the capital programme and an improved business case delivering the additional much needed units.
- 1.4 This report seeks authority for pre-construction expenditure, appointment of consultants, submission of a Planning application and for officers to procure the Demolition and Construction Works contracts; this authority to make this decision was delegated by Cabinet on 25th July 2018 (KD4710).
- 1.5 Further reports will be provided for the contract award to the demolition contractor and the contract award to the contractor for the new building.

## **2. RECOMMENDATIONS**

- 2.1 To approve a pre-construction expenditure of £1.339m; as set out in Part 2 of this Report and note that the expenditure will be funded from the Council's Capital Programme as agreed at Cabinet on 25<sup>th</sup> July 2018 (KD4710) and included in the Capital Strategy (2019/20) and 4-Year Capital Programme (2019/20 to 2022/23) approved at Cabinet on 13<sup>th</sup> February 2019 (KD4828).
- 2.2 To approve the appointment of consultants via a compliant Framework; as set out in Part 2 of this Report.
- 2.3 To approve the submission of a formal planning application based on the larger scheme with 91 units as submitted to the GLA.
- 2.4 To approve the procurement strategy, as approved at the Procurement & Commissioning Board on 12/02/2019, set out below and illustrated in the Design & Procurement Programme Rev3 (see Appendix 1).
- 2.5 To note that a further report will be submitted for Authority to Award the Construction Works contract and the balance of expenditure.
- 2.6 To approve pre-construction expenditure, appointment of consultants, submission of a Planning application and for officers to procure the Demolition and Construction Works contracts; this authority to make this decision was delegated by Cabinet on 25<sup>th</sup> July 2018 (KD4710).

## **3. BACKGROUND**

- 3.1 Reardon Court is the site of a former in-house residential care home; it is Council owned and currently vacant.
- 3.2 To realise the long-term value of this Council owned asset and secure future provision of affordable Extra Care Housing in the borough, the Cabinet received a report on 25<sup>th</sup> July 2018 recommending that the Council maintains ownership of this site and develops a minimum of 69 units for Extra Care Housing subject to GLA funding.
- 3.3 The Council is now seeking to redevelop this site to provide 91 (83 x 1-bedroom & 8 x 2-bedroom) modern, flexible and accessible Extra Care homes, with fully accessible communal space.
- 3.4 Total projected scheme development costs have increased from £17.3m reported to Cabinet in July 2018 to £24.2m, excluding furnishings and equipment, but including the cost of demolition.
- 3.5 A bid proposal to GLA was accepted in March 2019 for securing a grant contribution to development costs. A further report will be submitted to Cabinet as soon as practicable recommending approval of additional capital funding and an improved business case delivering the additional much needed units.
- 3.6 The site has now been vacant since late 2015 and it is in poor and deteriorating condition. Since the building has been closed it has been subject to various incursions, lead work has been stripped from roofing resulting in leaks and internal damage. The deteriorating condition now represents an increasing liability to the Council both in terms of cost and a health & Safety hazard.

- 3.7 The Cabinet Decision on 25th July 2018 (KD4710) gave delegated authority to the Executive Director Place, in consultation with Adult Social Care, Legal and Procurement Services, for the appointment of a design team.
- 3.8 An 'Approval to Procure' decision is now required to engage professional services to progress the design and undertake the requisite survey work in order to submit a planning application and procure a suitable contractor for the demolition works and then the construction works.
- 3.9 The procurement strategy for the Reardon Court redevelopment will be that the technical design services will be led by in-house technical services, Corporate Maintenance & Construction Team (CMCT), utilising consultants via compliant Frameworks for both full multidisciplinary services and a separate appointment for cost consultancy. The Demolition works contract will be a single stage procurement, competitively tendered to include local SME contractors; a further report will be submitted for Authority to Award the Demolition works contract. The Construction works contract will be in excess of the EU threshold for Works and therefore an OJEU notice will be issued for a single stage procurement, competitively tendered to for a Design & Build contract; a further report will be submitted for Authority to Award the Construction Works contract. This approach was agreed at the Procurement & Commissioning board on 12th February 2019. The procurement strategy is also set out in the Design & Procurement Programme Rev1 (see Appendix 1).

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

##### **4.1 Professional Services**

- 4.1.1 The professional services required cannot be entirely provided in-house as there is currently insufficient capacity within the Property & Economy Team.
- 4.1.2 The professional services required could be procured via other frameworks or through competitive tendering, using a pre-vetted list of consultants, but neither of these options would be suitable without direct call off. Conducting either mini-competition through a framework or a tender exercise would add time and potential delay and not deliver the early engagement required to deliver this project.

##### **4.2 Construction Works**

- 4.2.1 The Construction works could be procured via frameworks, however, conducting either mini-competition through a framework or meeting prescriptive framework procedures would add time and potential delay. If a typical framework two stage tender process was adopted, the Council would also have reduced leverage on price and would not be certain that the best price in the market had been obtained.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 **Procurement Strategy:** The proposed procurement strategy is set out on the current Design & Procurement Programme Rev3 (see Appendix 1). The Demolition works contract will be tendered in accordance with Contract Procedure Rules; the terms & conditions will be JCT Intermediate Form of Contract with Contractors Design 2016 edition. The Construction works

contract will be tendered in accordance with Contract Procedure Rules, the Public Contract Regulations for works exceeding the EU threshold; the terms & conditions will be JCT Design & Build Contract 2016 edition.

- 5.2 **Professional Services:** Client Technical Design Resources for both pre-construction services and post contract management; frameworks will be required to augment in-house technical resources as there is currently insufficient capacity, however this is an opportunity to increase the in-house technical capacity with capital funding without increasing staff revenue costs. The proposal is to use the Scape Build Environment Consultancy Services (BECS) Framework as this provides a comprehensive but flexible solution so that LBE can retain control but still benefit from all the technical resources needed to deliver the project. This will be via direct call-off to Perfect Circle/Pick Everard, so no delay in procurement of services and it is compliant with Public Contract Regulations.
- 5.3 **Construction Works:** Single stage Design & Build works contract with prescriptive Employers Requirements. The justification is that this should leverage the best price and will ensure the quality of the building meets or exceeds the Council requirements and national design standards.

## **6 COMMENTS FROM OTHER DEPARTMENTS**

### **6.1 Financial Implications**

- 6.1.1 In July 2018, Cabinet approved £17,378,000 to the capital programme for redevelopment of the existing Reardon Court site.
- 6.1.2 The estimated costs to progress the scheme up to Authority to Award the Construction Works contract is £1.339m. The estimated costs are spread across 2019/20 and 2020/21 and are within the funding approved that financial year. Refer to Part 2 for the detailed breakdown of estimated costs to progress the scheme up to Authority to Award the Construction Works contract.
- 6.1.3 VAT incurred towards any procurement and resourcing required in order to deliver this scheme may be recovered under provisions of Section 33 of VAT Act 1994. The main conditions for VAT recovery require that the council contracts for the goods/services, receives the order, receives VAT invoices in its name and pays with its own funds.

### **6.2 Legal Implications**

- 6.2.1 Section 111 of the Local Government Act 1972 ("LGA") gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions and the Localism Act 2011 provides the Council power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. In addition, section 112 of the LGA permits the appointment of such officers that the Council deems necessary for the discharge of its functions. The proposals set out in this report are consistent with this power.
- 6.2.2 The contents of this report constitute a Key Decision as the recommendation to progress the pre-construction phase up to Authority to Award the

Construction Works contract will lead to capital expenditure exceeding £250,000. This item has been included in the Key Decision List reference: KD4874. Once approved, the decision to proceed will be subject to the usual five-day call-in period.

- 6.2.3 The use of a compliant framework agreement is encouraged by the Council's Contract Procedure Rules ("CPRs"), CPR 4
- 6.2.4 The Council must comply with all requirements of its Constitution and CPRs. Where it demonstrates Best Value a legally compliant Framework should be used to procure the professional services. Due Diligence should be carried out on the Framework as the professional services are over the OJEU threshold of £181,302 for services.
- 6.2.5 Any call off from a Framework must be carried out strictly in compliance with the Framework terms and via the E-Tendering Portal (CPR 4.1.5)
- 6.2.6 The Call Off Contract for Professional Services will be in accordance with that in the Framework Agreement. Any other contracts required must be in a form approved by Legal Services on behalf of the Director of Law and Governance ahead of contract commencement date.
- 6.2.7 It is noted that the procurement of the Demolition works contract is to be by single stage competitive tender and the terms are to be in the form of the JCT Intermediate Building Contract with Contractor's Design 2016 Edition and the Construction works contract will be tendered in accordance with Contract Procedure Rules, the Public Contract Regulations 2015 as the works exceed the EU threshold; the terms & conditions will be JCT Design & Build Contract 2016 edition.
- 6.2.8 If the contract value for the works is £250,000 or over, sufficient security in the form of either a Parent Company Guarantee or a Performance Bond must be required to manage risk. Evidence of the form of security required or why no security was required must be stored and retained on the E-Tendering Portal for audit purposes (CPR 1.18)
- 6.2.9 In accordance with the provisions of the Town and Country Planning Act 1990, if the proposed works constitute 'development' as set out in s.55 of the act an application for planning consent will need to be submitted to the local planning authority.

### **6.3 Property Implications**

- 6.3.1 Reardon Court is no longer fit for purpose as outlined earlier in this report. Refurbishing the asset is not an option, as this would not be a good return on the investment required. The ongoing revenue costs relating to security and incursions will be eliminated by development of the site.
- 6.3.2 This report proposes the engagement of professional services, and so does not have direct property implications. The July 2018 Cabinet Report sets out the property implications associated with the project.
- 6.3.3 All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset

Management Data System, ATRIUM, including revised site plans, floor plans, asset information and maintenance regimes.

#### **6.4 Corporate Procurement Implications**

- 6.4.1 All procurements of goods/services/works will be in accordance with the Councils Constitution, Contract Procedure Rules (“CPRs”) and the Public Contracts Regulations 2015. In particular, the Council is able to utilise a range of EU compliant frameworks to engage the services of construction contractors or technical support staff such as architects or quantity surveyors in full compliance with the CPRs. Any use of a framework must be in accordance with the framework terms.
- 6.4.2 The proposed use of frameworks set out in Part 2 is compliant with the Council’s Contract Procedure Rules.
- 6.4.3 The award and future management of any contracts must be managed through the London Tenders Portal

### **7 KEY RISKS**

- 7.1 The key risks identified at this stage are:
- 7.1.1 Delay to the programme:
- .1 Continuing additional cost to the Council for security and remedials arising from incursions.
  - .2 If the scheme is significantly delayed, there is a risk that the GLA grant would be withdrawn – this would be the highest cost impact
  - .3 Increased pressure on Adult Social Services to provide Extra Care accommodation.
- 7.1.2 Cost increase:
- .1 The impact will be insufficient funding to meet the expenditure and a further call on the General Fund. This will be mitigated by rigorous Cost Planning from the outset and robust change control. The competitive tenders should provide the best price from the market, but inflation is currently very difficult to predict.
- 7.1.3 Failure to secure Planning Approval:
- .1 To mitigate the risk with planning permission a formal pre-application will be submitted to the Planning Authority with an iterative process up to the point of submitting the full application.
- 7.2 A detailed Risk Register must be maintained throughout the process to inform the project contingency and that alongside the Cost Plan will provide early warning of Cost increase and delays.

### **8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

#### **8.1 Good homes in well-connected neighbourhoods**

- 8.1.1 The provision of modern, accessible, self-contained extra care housing within the borough will provide much needed accommodation for older people.

## **8.2 Sustain strong and healthy communities**

- 8.2.1 The project promotes Key Council values and places emphasis on residents' empowerment and participation through involving service user groups in the consultation process from inception to completion. The scheme addresses the Council's objective by involving the public in the decision-making process and help them play an active role in their local neighbourhoods

## **8.3 Build our local economy to create a thriving place**

- 8.3.1 As the Council are proposing to redevelop this site once demolished it will mean any income obtained will facilitate and/or support other Council activities.
- 8.3.2 The Council will work collaboratively with internal and external stakeholders to promote community focussed delivery by working in partnership with others.

## **9. EQUALITY IMPACT IMPLICATIONS**

- 9.1 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report.

However, it should be noted that the any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

- 9.2 In the event of an illegal occupation the Council may need to undertake welfare checks and ensure no human rights issues are engaged. In addition, while procedures and budgets do not impact on any protected list, the Council must always ensure that out sites are safe and secure and or prohibit access to unauthorised individuals.

## **10. PERFORMANCE AND DATA IMPLICATIONS**

- 10.1 The performance of the contractor is measured by the implementation of Key Performance Indicators compiled on a monthly basis. These are scored by the Contract Administrator and representatives from the Councils officers.

## **11. HEALTH AND SAFETY IMPLICATIONS**

- 11.1 The Construction (Design and Management) Regulations 2015 apply to this project and the Council will be deemed to be the "Client" and as such has a duty to appoint a "Principal Designer" and to appoint a "Principal Contractor".

## **12. HR IMPLICATIONS**

- 12.1 No implications

## **13. PUBLIC HEALTH IMPLICATIONS**

- 13.1 No implications

**Appendices:**

- Appendix 1 - Design & Procurement Programme Rev3 – April 2019

**Background Papers**

- Cabinet report KD4710